

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PHILADELPHIA ENERGY SOLUTIONS
REFINING & MARKETING, LLC and PES
LIQUIDATING TRUST

Plaintiffs,

v.

THE BABCOCK & WILCOX COMPANY;
BABCOCK & WILCOX COMPANY; BABCOCK
& WILCOX HOLDINGS, LLC; BABCOCK &
WILCOX ENTERPRISES, INC.

Defendants.

CIVIL ACTION

NO. 2:21-cv-01363

**STIPULATION WITH RESPECT TO DEFENDANTS' MOTIONS TO
TRANSFER AND TO DISMISS PLAINTIFFS' COMPLAINT AND
PLAINTIFFS' MOTION TO REMAND/ABSTAIN**

It is hereby agreed between and amongst counsel for Plaintiffs, Richard J. Parks, Esquire of Pietragallo Gordon Alfano Bosick & Raspanti, LLP, and counsel for Defendants, Robert G. Devine, Esquire of White and Williams LLP, as follows with respect to Defendants' Motion to Transfer and Motion to Dismiss and Plaintiffs' Motion to Remand/Abstain and the adversary proceeding entitled The Babcock & Wilcox Company v. Philadelphia Energy Solutions Refining & Marketing, LLC, et al. Adversary No. 21-01014; now pending in the United States Bankruptcy Court for the Eastern District of Louisiana (the "Bankruptcy Adversary Proceeding) and considering the applicable law and for good cause shown:

1. Except as otherwise provided herein and subject to all Parties' mutual reservations of all rights and defenses, which shall not be affected by this Stipulation, the application, jurisdiction and scope of the bankruptcy discharge, injunction, and Confirmation Order in

connection with the Bankruptcy Adversary Proceeding filed in Jointly Administered Chapter 11 bankruptcy cases of The Babcock & Wilcox Company, et al. at Bankruptcy Case No. 00-10992 with respect to or affecting the above-captioned case shall be determined by a final appealable judgment in the Bankruptcy Adversary Proceeding pending in the United States Bankruptcy Court for the Eastern District of Louisiana (the "Bankruptcy Determination Order").

2. This litigation is stayed and shall remain in the United States District Court for the Eastern District of Pennsylvania while stayed with a mutual reservation of all rights in regard to all issues and all parties and no further action shall be taken in the case or in regard the subject matter of this case until after (i) the entry of the Bankruptcy Determination Order and (ii) the denial by all applicable courts of any and all timely filed motions or applications for a stay with respect to any Bankruptcy Determination Order, and with no stay having been granted or in effect.

3. The Motion to Transfer Venue [ECF No. ECF No. 3] and Motion to Dismiss [ECF No. 2] brought by Defendants as well as the Motion to Remand/Abstain [ECF No. 18] brought by Plaintiffs are denied without prejudice so as to give effect to this Stipulation with the right to renew non-bankruptcy defenses once the stay expires.

4. After the entry of the Bankruptcy Determination Order, and the denial by all applicable courts of any and all timely filed motions or applications for a stay with respect to any Bankruptcy Determination Order, and with no stay having been granted or in effect, any state law claims for damages which are not discharged, by the Bankruptcy Determination Order shall be remanded to the Court of Common Pleas for Philadelphia County.

APPROVED BY THE COURT:

s/ANITA B. BRODY, J.

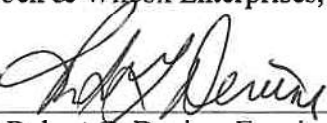
Honorable Anita B. Brody, U.S.D.C.

05/21/2021

**PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP**
Attorneys for Plaintiffs,
Philadelphia Energy Solutions Refining
& Marketing, LLC and PES Liquidating Trust

By: 
Richard J. Parks, Esquire

WHITE AND WILLIAMS LLP
Attorneys for Defendants,
The Babcock & Wilcox Company,
designated correctly as The Babcock &
Wilcox Company as well as incorrectly
designated as Babcock & Wilcox Company,
Babcock & Wilcox Holdings, LLC and
Babcock & Wilcox Enterprises, Inc.

By: 
Robert G. Devine, Esquire